

BIGFORK LAND USE ADVISORY COMMITTEE (BLUAC)
Approved Minutes Thursday January 28, 2021
Meeting was conducted at Bethany Lutheran Church

Chairwoman Susan Johnson called the meeting to order at 4:05 p.m.

Present: Committee member attendees: Susan Johnson, Chany Ockert, Lou McGuire, Jerry Sorensen, Shelley Gonzales, Richard Michaud and Brenton Pomeroy (as Secretary); Absent: none; Public: 33 members; Flathead County Planning and Zoning (FCPZ): Mark Mussman, Donna Valade, and Erik Mack.

The agenda was amended to accurately reflect the application number for FZC-20-19 and was approved (m/s, J. Sorensen/C. Ockert), unanimous.

Minutes of the December 17, 2020 meeting were approved (m/s, J. Sorensen/L. McGuire), unanimous.

Administrator's Report and Announcements:

A sign in sheet was provided and emails addresses were requested to ensure distribution of the minutes to those in attendance. Approved minutes and documents are also posted on the County website: flathead.mt.gov/planning_zoning. Click on [meeting information](#). Per P&Z request, S. Gonzales provided information concerning submitting comments directly to P&Z at planning.zoning@flathead.mt.gov and not to the BLUAC. Also, there are openings on BLUAC. If interested, applicants can go to the Election Department webpage and download an application. Application period is open until the 8th of February and election will be on May 4th, 2021. Additionally, a request was made for those in attendance to assist with sanitizing the facility due to Corona virus concerns and to be sure to speak loud as those present were wearing proactive face masks. The Bigfork Steering Committee website is still up and Glacier IT will start charging to keep the site operational. There is a possibility of using bigfork.org as a site to maintain BLUAC information and this will be discussed in the future. Finally, the next meeting for application FZC-20-17 and FZC-20-19 will be February 10th, 2021 in Kalispell.

Public Comment: None

Application:

FZC-20-17: A zone change request from Tara Oster, for property within the Holt Zoning District. The proposal would change the zoning on property located at 307 Chapman Hill Road, Bigfork, MT from R-3 (One-Family Residential) to R-1 (Suburban Residential). The total acreage involved in the request is approximately 1 acre that can legally be described as follows: Tract 1 of Certificate of Survey No. 11767, located in the Southwest Quarter of the Southwest Quarter of Section 25, Township 27 North, Range 20 West, P.M.M., Flathead County, Montana.

Staff Report:

D. Valade presented the staff report and described the process that a zone change goes through. The applicant is requesting a zoning map amendment within the Holt Zoning District. The proposed amendment if approved, would change the zoning of the subject property from R-3

“One Family Residential” to R-1 “Suburban Residential”. FCPZ provided answers to BLUAC member questions.

Applicant Report:

The applicant (Tara Oster) provided zoning information minimum requirements for R-1 and described how her property meets those requirements. She also provided zoning information concerning neighboring properties. Finally, she provided background on her animals and the zoning violation that led to her application for a zoning change.

Public Agency Comments: None

Public Comment:

Vince Taylor (1171 Boat Club Drive) representing himself and the Ponderosa Boat Club HOA provided comments in opposition to the zoning change. He argued that neighboring properties values are decreased due to the animals on the property and argued that a neighboring property had two failed sales due to the animals.

LeAnn Siderius (1525 Steel Bridge Road, Kalispell) stated she is a real estate agent and provided details concerning the lots next to the subject property that were for sale. She stated that the lot mentioned by Vince Taylor sold for \$78K in 73 days which was the most expensive lot sale in the year for the neighborhood. She also stated that a home that was also adjacent the subject property sold for \$450K despite being listed for \$439K. She argued that the animal’s presence did not affect the sales. Her comments were in support of the application.

Staff Reply: None

Applicant Reply: None

Committee Discussion:

J. Sorensen expressed concern for the subject property being a singular property that does not fit with the neighborhood and that one acre is not sufficient for a horse and donkey. S. Johnson agreed. C. Ockert discussed how older neighborhoods have varied zoning which improves variety and argued that it can be a good thing to have.

Findings of Fact:

Finding of Fact number 10 was amended to read “The proposed zoning map amendment does not appear suitable for the character of the district and appears to constitute spot zoning because the proposed zone would not allow for similar uses to the surrounding zones.” (m/s, J. Sorensen/L. McGuire), all in favor except C. Ockert.

Finding of Fact number 11 was amended to read “The proposed zoning map amendment does not appear to conserve the value of buildings and encourage the most appropriate use of land throughout the jurisdictional area because the proposed zoning designation does not allow for similar uses to the adjacent properties.” (m/s, L. McGuire/S. Gonzales), all in favor except C. Ockert and J. Sorensen.

The Findings of Fact were adopted as amended. (m/s, L. McGuire/S. Gonzales), unanimous.

Committee Discussion and Vote: J. Sorensen moved to forward a recommendation to the Board of Adjustment to deny FZC-20-17. Motion was seconded by L. McGuire, motion passed with all in favor except for C. Ockert.

FZC-20-19: A zone change request from Day Family Trust for property within the Echo Lake Zoning District. The proposal would change the zoning on property located at 465 Echo Bay Trail, Bigfork, MT from AG-40 (Agricultural) to SAG-5 (Suburban Agricultural). The total acreage involved is approximately 62.13 acres and can legally be described as follows: Lots 2A and 3A of The Amended Plat of Lots 2, 3, and 4 of Lake Hollows Subdivision, according to the official plat thereof, filed in Official Records of the Flathead County, Montana. And Lot 4AA of Echo Bay Tracts, an Amended Subdivision Plat of Lot 4A, according to the official plat thereof, filed in Official Records of Flathead County, Montana.

Staff Report:

E. Mack presented the staff report. He provided the general characteristics of the subject property along with zoning information for adjacent properties. E. Mack provided agency comments and recommendations. FCPZ provided answers to BLUAC member questions.

Applicant Report:

The applicant (Rowland and Jamie Day) represented by Tamara Tanberg (APEC Engineering) provided details concerning property subdivision and natural areas that would be preserved from development. She discussed the property ownership status, the easement for the road. Mark Liechti (APEC Engineering) discussed the impact of development of the subject properties and the impact to water quality. He discussed how current requirements for septic systems and construction far exceed many of the systems found or used on other properties surrounding Echo Lake. T. Tanberg answered BLUAC member questions.

Public Agency Comments: None

Public Comment:

Linda Thompson Smith (1405 Fireman's Island Road) expressed concerns for sewage waste disposal. She was also concerned about trees that had been planted on the subject property that had died due to flooding and the subject property being used for vacation rentals. L. Thompson opposed the application.

Mike Glain (580 W. Village Drive) expressed concern for the water quality. He presented information concerning water quality, erosion, and impact to wildlife. He is also concerned for setting a precedent that will allow for others to follow suit and further impact Echo Lake. M. Glain opposed the application.

Bill Dakin (477 E. Village Drive) provided a historical perspective concerning the Echo Lake area development. He is also concerned for setting precedent that will be a road map to allow others to further develop the Echo Lake. He is concerned for people's enjoyment of the lake as well as the water quality. B. Dakin opposed the application.

Cly Evans (1409 Fireman's Island Road) expressed his concern for erosion that he feels is unbelievable. Additionally, he is concerned for the painted turtles that live in the lake as well as other wildlife in the area. C. Evans opposed the application.

Wade Schott (770 Echo Lake Road) provided historical information concerning a committee in 1995 which provided zoning to preserve the lake and keep it pristine. He also discussed the water levels being impacted by snow levels leading to flooding. W. Schott opposed the application (1:41:46)

Wayne Grilley (1399 Fireman's Island Road) expressed concern over the shooting range next to this property and the potential for future lawsuits. W. Grilley opposed the application.

Sarah Dakin (477 E. Village Drive) discussed the purposes of zoning being to preserve natural resources and to promote the public health, safety, and welfare of the community. She was also concerned that the information for the meeting was difficult to obtain from the website. S. Dakin opposed the application.

John Wachsmuth (1098 Echo Lake Road) expressed concerns for Echo Lake water quality and fecal coliform in the lake due to septic systems on the lake. He was also concerned for water safety, water quality and erosion. J. Wachsmuth opposed the application.

Barbara Sherrard (770 Echo Lake Road) expressed her concern for grizzly bears and bald eagles and the potential loss to their habitat. B. Sherrard opposed the application.

Mark Suppelsa (509 E. Village Drive) described his experience with a volunteer program he started looking for invasive species at Echo Lake. He is concerned for the added boat launch traffic and potential for additional docks being built that can support multiple boats. M. Suppelsa opposed the application.

Susan Hutz (1898 La Brant Road) provided historical information concerning the boat launch ramp location on Echo Lake. She expressed her concern on the amount of traffic and that the county acknowledged the impact, so they now pay to oil the road. She opposed the application.

Staff Reply: None

Applicant Reply: T. Tanberg provided additional information to answer a BLUAC member question concerning family transfer eligibility for the subject property to which it is not eligible.

Committee Discussion:

J. Sorensen questioned FCPZ on the uses of AG40. C. Ockert discussed the neighborhood plan and how the change could affect the character. J Sorensen provided some historical perspective on the subject property and how properties were originally zoned. He concluded with recommending BLUAC forward a recommendation to allow 10 acre lots. R. Michaud expressed concern for the quality of the lake water using Lake Tahoe in California as an example. He was

also concerned that we were setting precedent if BLUAC recommended the property be zoned SAG-10.

Findings of Fact:

Finding of Fact number 3 was amended to read “The proposed map amendment would secure safety from fire and other dangers because even though it would allow for additional houses in the WUI, emergency services are available, however it would be difficult to reach the property and thinning has occurred on the property.”

Finding of Fact number 4 was amended to read “The subject property has flood risk because the south half of the property is located in a flood hazard Zone A, and the annual high-water elevation fluctuates to 5 or more feet above the mean annual high water on Echo Lake, and additional homes could increase further erosion.”

Finding of Fact number 5 was amended to read “The proposed zoning map amendment could have a negative impact on public health, safety and general welfare because the property is served by the Creston Fire Department, Flathead County Sherriff, future development would be similar to uses already allowed in the current AG-40, SAG-10, and SAG-5 zoning, and emergency service providers can anticipate likely emergencies based on similar existing and proposed uses.”

The Findings of Fact were adopted as amended. (m/s, S. Gonzales/C. Ockert), all in favor except L. McGuire who was absent from the vote.

Committee Discussion and Vote: J. Sorensen moved to forward a recommendation to approve FZC-20-19 with a recommendation the subject property be rezoned to SAG-10. Motion was seconded by L. McGuire, motion failed to pass with J. Sorensen, L. McGuire, and S. Johnson voting in favor of, and C. Ockert, S. Gonzales, and R. Michaud voting against the motion.

R. Michaud moved to forward a recommendation to the Planning Board to deny FZC-20-19. Motion was seconded by S. Gonzales, motion passed with all in favor except for J. Sorensen.

Old Business: None

New Business:

M. Mussman provided information to BLUAC concerning after the fact variances. He discussed how the fees are increased for those who file for after the fact variances and how variances are supposed to be difficult to get. He also discussed how variances can be remedied.

Adjourn:

The meeting adjourned at 6:48 p.m. (m/s C. Ockert/L. McGuire), all in favor.

Brenton Pomeroy, Secretary

2 Attachments:

Attachment 1: Public comments received by email

Attachment 2: Document from FCPZ presented by E. Mack at meeting.